

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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Local Competition Survey

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CC Docket No. 91-141  
CCB-IAD File No. 98-102

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

**INTRODUCTION**

The United States Telephone Association ("USTA") hereby files its reply comments in response to comments on the Commission's Public Notice ("Notice").<sup>1</sup> USTA is the principal trade association of the incumbent local exchange carrier industry ("ILECs").

USTA urges the Commission to reject efforts to impose reporting requirements solely on ILECs. The Commission can only ensure a comprehensive review of the state of local competition by requiring competitors of ILECs to provide data. Small, rural, and mid-size ILECs should be exempt from providing data because of their limited resources, the disproportionate regulatory burdens that reporting requirements would impose on such carriers, and given that competitors have shown no interest in competing in areas served by these ILECs. The reporting requirements should sunset in the year 2001. USTA also recommends that the Commission not use this proceeding to require ILECs to comply with the Commission's self-described legally

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<sup>1</sup> *Public Notice*, DA 98-839, released May 8, 1998.

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non-binding model rules on operations support systems. By limiting the reporting requirements to an annual survey in response to a *Notice of Inquiry*, the Commission will reduce administrative and financial costs of ILECs complying with the Commission's request for information on local competition.

**I. A COMPREHENSIVE SURVEY OF LOCAL COMPETITION  
MUST INCLUDE ALL COMPETITORS TO ILECS**

MCI argues that ILECs, not CLECs, should provide local competition survey data because of the financial burdens the Commission's reporting requirements would impose on new entrants.<sup>2</sup> AT&T suggests eliminating reporting requirements for wireless technologies because they are not competitive alternatives to ILEC wireline services.<sup>3</sup>

Every CLEC purchasing interconnection, unbundled network elements ("UNEs") and resale of ILEC services should be required to provide this data to the Commission. The CLECs have this information and should not be excluded from providing it to the Commission. Given that CLECs have complained incessantly about the lack of competition in the local exchange market, it is odd that they would not want to document the scope of local competition for consideration by the Commission. Moreover, an accurate picture of local competition must include responses from wireless technologies to determine if they are becoming substitutes for ILEC wireline telephony services.

USTA agrees with the comments of SBC and others that the survey must require that

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<sup>2</sup> *MCI Comments* at 3.

<sup>3</sup> *AT&T Comments* at 6.

CLECs provide data on local competition to ensure that the Commission receives a comprehensive picture of the scope of local competition. As SBC commented:

SBC believes that obtaining data from both ILECs and CLECs provides a "checks and balances" mechanism that should help increase confidence in the survey's data. More important than this checks and balances mechanism is that, without the non-ILECs' participation, the survey will not yield a comprehensive picture of the state of local competition. ILEC data does not reflect the activities of CLECs who serve customers by completely bypassing ILEC networks. Furthermore, even the data provided by CLECs will not address certain important aspects of the competitive market such as cable telephony, shared tenant services, wireless and Internet. The Commission must take these factors into account in drafting its order to ensure creation of meaningful reports.<sup>4</sup>

A comprehensive review of local competition can only be achieved with data from different telephony market segments regardless of technology deployed, otherwise the Commission should not require the collection of any data. Instead, the Commission can rely on the forbearance process, biennial review, Section 271 filings, and publically available reports such as those mentioned in USTA's comments<sup>5</sup> to assess the state of local competition. ILECs should not be solely required to provide such information without a cost recovery component that

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<sup>4</sup> *SBC Comments* at 1-2; *see also*, *USTA Comments* at 9 ("Other providers of local ... services including CLECs, CAPs, resellers, cable providers, and others such as electric utilities and their partners ... should be required to provide data on local competition"); *US WEST Comments* at 8 (Commission understanding of the scope of local competition will be "incomplete, inaccurate, and distorted if data collection is limited to just [ILECs]"); *BellSouth Comments* at 7 (if required the survey must include responses from all providers of local exchange services, "regardless of the technology used"); *GTE Comments* at 8 ("It is equally important that all carriers providing local services report these data elements to the Commission"); *MediaOne Comments* at 2 (without CLEC data "the state of competition cannot be assessed"); *SNET Comments* at 2 ("for such a survey to provide a complete picture of the state of local competition, ... CLECs must provide additional data" ); *ALTS Comments* at 8 ("having the CLEC and the ILEC report the same information ... will be a good check and balance").

<sup>5</sup> *USTA Comments* at 3-5.

would permit ILECs to defray the costs associated with collecting data on local competition.

AT&T argues for reduced reporting requirements for CLECs because they may not have the systems or processes in place to collect the data.<sup>6</sup> Clearly, the reporting requirements that the Commission proposes are administratively burdensome and costly to meet for ILECs. As BellSouth explained, it took 300 man-hours to produce its response to the Commission's February 1998 request for data on local competition, and may require 1,200 man-hours to complete the Commission's proposed local competition survey form.<sup>7</sup> Likewise, U S WEST stated that it took 200 man-hours to provide the Commission with survey data.<sup>8</sup> Contrary to comments by MCI,<sup>9</sup> ALTS,<sup>10</sup> and GSA,<sup>11</sup> who favor creation of new regulations with no sunset, it is clear that the collection of local competition data should terminate no later than the year 2001 as proposed by the Commission. As competition continues to grow,<sup>12</sup> the regulatory and

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<sup>6</sup> *AT&T Comments* at 12.

<sup>7</sup> *BellSouth Comments* at 4-5.

<sup>8</sup> *U S WEST Comments* at 4.

<sup>9</sup> *MCI Comments* at 8.

<sup>10</sup> *ALTS Comments* at 12.

<sup>11</sup> *GSA Comments* at 9.

<sup>12</sup> As BellSouth noted, AT&T paid \$11 billion for Teleport, presumptively with the intent to compete in the local exchange market. *BellSouth Comments* at 3. In addition, in its Supreme Court Brief involving the Commission's local competition *Order*, ALTS noted that CLECs have raised "over \$14 billion ... since the passage of the ... Act" in 1996. *See ALTS Brief* at 2, note 2 (May 18, 1998). Gerry Salemmme, Senior Vice President of NEXTLINK, stated recently that "I would actually say there is probably \$18 billion that has been invested in the market." *See Remarks of Gerry Salemmme* at the FCC's *Forum Addressing Combination of Unbundled Network Elements*, Heritage Reporting Corporation Transcript at 22, (June 4, 1998), [www.fcc.gov/realaudio/archive/tr060498.pdf](http://www.fcc.gov/realaudio/archive/tr060498.pdf) (June 19, 1998). In addition, Salomon Smith

financial burdens of providing the data will also increase. ILECs should not bear the costs of complying with needless reporting requirements *ad infinitum*. USTA agrees with the comments filed by NTCA that the 30 hours predicted by the Commission to complete its proposed local competition survey form would “add more costs to consumers in rural areas” because of the time and effort required to respond to the questionnaire, given the limited staffs and resources of such companies.<sup>13</sup> In its comments, USTA urged the Commission to exempt small, rural, and mid-size companies from reporting requirements.<sup>14</sup> The cost and administrative burdens that the Commission’s proposed reporting requirements would place on these companies are not supported by overriding public policy reasons, especially given that these companies are such a small percentage of total ILEC access lines, and because CLECs have shown virtually no interest in competing for customers in high-cost, low volume areas served by these companies.

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Barney Analyst Jack Grubman recently reported that CLECs collectively added 498,000 new business lines in the 1<sup>st</sup> quarter of 1998 as compared to just 461,000 in net new business line growth for the Bell companies. *See* Grubman/McMahon, *CLECs Surpass Bells in Net Business Line Additions for First Time* (May 6, 1998); *see also*, *USA Today* (May 7, 1998). According to Mr. Grubman’s report, this level of competition is unprecedented and reflects that CLECs will surpass 50% market-share in the local exchange market in significantly less time than it took competitors to reach similar market-share figures against AT&T in the long distance market. *Id.*

<sup>13</sup> *NTCA Comments* at 3.

<sup>14</sup> *USTA Comments* at 8.

## II. REQUESTS TO USE THE LOCAL COMPETITION SURVEY TO REQUIRE REPORTING ON OSS SHOULD BE REJECTED

Allegiance Telecom, Inc., also argues that the Commission should require ILECs to report data on operations support systems (“OSS”)<sup>15</sup> consistent with the Commission’s model rules on “performance measurements” and “reporting requirements.”<sup>16</sup> USTA opposes this suggestion. The Commission’s proposed OSS model rules are in the Commission’s own words legally non-binding. Therefore, as USTA has argued, the Commission’s proposed model rules are not enforceable and state commissions must follow appropriate state law requirements to adopt the recommendations made by the Commission.<sup>17</sup> Any attempt to use the reporting process in this proceeding to legitimize the Commission’s legally non-binding OSS model rules would also be inconsistent with the Commission’s forbearance obligations under Section 10<sup>18</sup> of the Telecommunications Act of 1996 (“Act”).<sup>19</sup>

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<sup>15</sup> *Allegiance Comments* at 6-7.

<sup>16</sup> *See In the Matter of Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, CC Docket No. 98-56, RM 9101, *Notice of Proposed Rulemaking*, FCC 98-72, released April 17, 1998; 63 Fed. Reg. 27021-27035 (1998).

<sup>17</sup> *USTA Comments* at 17, CC Docket No. 98-56, RM 9101 (June 1, 1998)(“Any effort to enforce the Commission’s legally non-binding model rules would be inconsistent with the due process rights of ILECs”).

<sup>18</sup> 47 U.S.C. §160.

<sup>19</sup> 47 U.S.C. §151, *et seq.*

### **III. ANNUAL FILINGS ON LOCAL COMPETITION REDUCE REGULATORY BURDENS**

In support of quarterly filings, MCI argues that "Data submitted annually or semi-annually will be outdated and therefore useless to the Commission."<sup>20</sup> In its comments, USTA noted that the Commission reports to Congress, on an annual basis, the scope of competition in the video and CMRS markets.<sup>21</sup> Moreover, USTA argued that the Commission's information gathering effort must comport with the regulatory forbearance requirements of Section 10, and the biennial review effort to eliminate needless regulations pursuant to Section 11<sup>22</sup> of the Act.<sup>23</sup> MCI has provided no legal, regulatory or public policy justification for urging the Commission to adopt quarterly reporting requirements regarding the scope of local competition. If annual reporting on competition in the video and CMRS markets is sufficient for Congress, an annual filing on local competition should be more than adequate for the Commission.

### **CONCLUSION**

The Commission should do no more than necessary to collect information on developments in local competition. By requiring CLECs and other competitive providers of local exchange carrier service to provide information, the Commission will receive a more accurate picture of how local competition is developing. Small, rural, and mid-size ILECs

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<sup>20</sup> *MCI Comments* at 8.

<sup>21</sup> *USTA Comments* at 9.

<sup>22</sup> 47 U.S.C. §161.

<sup>23</sup> *Id.* at 8.


should not be required to file reports because of the administrative and financial burdens such requirements would impose on ILECs with limited staffs and resources. There is no basis for the Commission to extend its reporting requirements beyond the year 2001. Also, the Commission should not impose legally non-binding OSS reporting requirements on ILECs through this or any other proceeding. In addition, a single annual report, based on data provided in response to a *Notice of Inquiry*, is a process that is consistent with Commission practice regarding annual surveys provided to Congress on the scope of competition in the video and CMRS markets.

Respectfully submitted,

**UNITED STATES TELEPHONE ASSOCIATION**

June 22, 1998

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**CERTIFICATE OF SERVICE**

I, Theresa Caballero, do certify that on June 22, 1998, copies of the accompanying Reply Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.

  
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